

Minutes of the Board of Adjustment meeting held on Monday, March 10, 2014, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tom Halliday, Chair
Rosi Haidenthaller, Vice-Chair
Roger Ishino
Chad Wilkinson, Community Development Manager
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Travis Nay

The Staff Review meeting was held from 5:15 to 5:30 p.m. The Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

Thomas Halliday explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and is based on state outlined criteria, and that financial issues are not considered a hardship.

APPROVAL OF MINUTES

Ms. Haidenthaller made a motion to approve the minutes from February 10, 2014 as submitted. Mr. Ishino seconded the motion.

A voice vote was made. The motion passed, 3-0.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

CASE #1486 - CORY HANSEN – 1340 East Greenfield Avenue – Project #14-28

Cory Hansen was the applicant present to represent this request. Ray Christensen reviewed the location and request for a rear yard setback variance for a residential addition with an attached garage at the property addressed 1340 East Greenfield Avenue. Murray Municipal Code Section 17.100.080.D. requires 15 ft. minimum rear yard setback for residential structures located in the R-1-8 zone constructed prior to April 7, 1987. This variance request is for approximately three feet six inches rear yard setback variance to construct a residential addition and attached garage to the back of the existing dwelling. The applicant is requesting a variance for a setback of approximately 11.5 feet. The Salt Lake County Assessor's records show this existing dwelling was constructed in 1959. The applicant has provided alternative site plans. There are two site plans and building elevations showing attached structures to the dwelling and detached garage structure. The site plan with the detached structure is located two feet off the property line and is located on a utility easement. The five foot wide utility easement is shown on the attached subdivision plat and is located across the south rear yard of the property on Tanglewood Subdivision lot #4. A detached garage will need to be located outside the utility easement or a license to encroach on the easement would need to be obtained from the City Engineer. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds

that the proposal does not meet the standards for a variance. Therefore, staff recommends denial.

Ms. Haidenthaller expressed that the way the project is presented is confusing as the property is on a corner lot. There was discussion regarding the way the property faces.

Cory Hansen, 1340 East Greenfield Avenue, asked if he could present new modified plans showing the five foot utility easement. Mr. Hansen stated that he agrees with city staff that there is not a real hardship imposed on the detached garage situation. Mr. Hansen stated that he has been a designer for 35 years, and about four years ago he had a situation similar to this one, all the ordinances were met and the adjacent property owner was upset for placing that garage in their front yard. Mr. Hansen stated that detached garages don't always work on corner lots. Mr. Hansen stated his only concern is the adjacent property is set back 40 feet from the property line. Mr. Hansen explained that he is allowed to be within 20 feet of the property line on the detached garage and that this is allowed with the five foot utility easement taken into consideration. Mr. Hansen stated that he could go through the process and get within two feet of the property line, but he doesn't want to do that. The detached garage hinders the adjacent property owner. The addition with the attached garage is six foot, six inches wide, which is the minimum needed to put accommodate a washer and dryer and closet. Mr. Hansen stated that will encroach the 15 foot building area, but the average 15 foot, 6 inches as it is on an angle. Mr. Hansen expressed that he feels that it is a better solution for the adjacent property owner. The recommendation of a denial from city staff is based on the hardship of Mr. Hansen. Mr. Hansen stated that he agreed and there is no hardship on his part, but there is a hardship on the adjacent neighbor.

Mr. Halliday stated that Mr. Hansen may be right, but the Board of Adjustment has to meet the law and it is unfortunate that the law doesn't allow the Board to fix this type of hardship. Mr. Halliday asked Mr. Hansen why the garage couldn't be moved further back to the west. Mr. Hansen answered that the rear yard is very small. There was a discussion regarding setbacks and reasons why the garage couldn't be moved back on the property.

Ms. Haidenthaller stated that as a property owner, a person is not guaranteed a certain view or that the neighbor won't build something on their property that you don't agree with. Ms. Haidenthaller explained that it is not a hardship how the structure will appear to your neighbor. Mr. Hansen stated that he agreed that there was never a hardship on his part. There was more discussion regarding variance findings and how this project could be approved.

Mr. Hansen provided the Board with a photo of a property in his neighborhood with a detached garage on the property, which is a corner lot. Ms. Haidenthaller stated that variances are granted with each property and they go with the property and it is unknown when the addition was added.

Mr. Halliday asked Mr. Christensen when this structure was built. Mr. Hansen stated that there is a change in the brick that is visible with the newer addition. Mr. Christensen stated that this area was annexed into Murray, roughly within the last ten years; unfortunately we do not have record of this addition. Mr. Ishino stated that variances are granted on its own merit and not necessarily what happened previously.

Mr. Halliday opened the meeting for public comment.

Curtis Christensen, 6568 Lombardy Drive, stated that he has had conversation with Mr. Hansen and Mr. Christensen about this issue. He stated that he can understand why the city does not want the detached garage proposal. Curtis Christensen stated that the fence between the two properties has problems; it needs to be cleaned up and with a garage that close to the property line will make it harder to take care of the fence. To have the attached garage will make the property more attractive and will do a lot for the neighborhood. Curtis Christensen stated that when he purchased his home in 1977, the home across the street from Mr. Hansen already had the garage there.

Ms. Haidenthaller asked Curtis Christensen if he was in favor of the attached garage or the detached garage. Curtis Christensen stated that he would like the attached garage because it does so much more for that corner. Curtis Christensen stated that the property looks clean from the front, but he would like the bushes cleaned up. There is ivy on the other side of the property line and Curtis Christensen stated that he keeps it maintained on his side of the fence.

Mr. Halliday asked staff what could be done with this. Mr. Wilkinson stated that the one other choice in the staff report is that the size of the connecting addition could be reduced to five feet that would bring the garage closer to the home. Mr. Wilkinson expressed that there isn't a financial or self-imposed hardship.

The public comment portion of the meeting was closed.

Mr. Ishino stated that since the addition has not been built yet, there still are options for this, there aren't changes that need to be made to an existing structure.

Ms. Haidenthaller made a motion to deny this rear yard setback variance for a residential addition with an attached garage at the property addressed 1340 East Greenfield Avenue. Mr. Ishino seconded the motion.

Call vote recorded by Ray Christensen.

A _____ Rosi Haidenthaller

A _____ Tom Halliday

A _____ Roger Ishino

Motion passed, 3-0.

Mr. Ishino made a motion to approve the Findings of Fact as presented. Ms. Haidenthaller seconded the motion.

Motion passed, 3-0.

CASE #1485 - KURT THORNTON – 6265 South 725 East – Project #14-27

Kurt Thornton was the applicant present to represent this request. Ray Christensen reviewed the location and request for an addition onto the existing legal nonconforming single family dwelling and an addition onto a detached garage located in the rear yard at the property addressed 6265 South 725 East. The residence is currently nonconforming

related to the minimum separation between the home and a detached garage. Murray City Code 17.52.040 allows for a building or structure occupied by a nonconforming use, or a building nonconforming as to height, area, or yard regulations to be added to, enlarged or moved to another location on the lot subject to authorization by the Board of Adjustment. The applicant is requesting Board of Adjustment approval for a 125 sq. ft. building addition onto the existing dwelling and a 264 sq. ft. sq. ft. building addition onto the back of the existing detached garage. This property was annexed into Murray City approximately ten years ago from Salt Lake County and contains .55 acre. The Salt Lake County records show the dwelling was constructed in 1922. The applicant stated in his written information the garage was built in 1973 when the property was in Salt Lake County. The existing separation between the dwelling and detached garage is nonconforming to the current ordinance requirements for rear yard setback between the residence and a rear-yard detached accessory building. The Code currently requires an accessory structure to be setback a minimum of six feet behind the main residence in the R-1-8 zone. The additions onto the existing structures will not change the setback between the buildings. Based on review and analysis of the application materials, subject site and surrounding area, and applicable Murray Municipal Code sections, Community and Economic Development staff finds that the proposal meets the standards for an expansion/alteration of nonconforming structures. Therefore, staff recommends approval subject to one condition that the applicant shall obtain a building permit prior to construction and the proposed additions shall comply with applicable building and fire codes.

Ms. Haidenthaller asked Mr. Christensen questions regarding the pictures of the building. There was discussion regarding the orientation of the house.

Kurt Thornton, 6265 south 725 east, stated that if anything is added to the home or the garage, it will be non-conforming. Ms. Haidenthaller asked Mr. Thornton how long he has lived in his home. Mr. Thornton responded that he has lived there for 10 years and that he purchased it from the original owner.

Mr. Ishino asked the proposed height of the building addition. Mr. Thornton stated that it was a little confusing, but he will be adding to the original footprint 125 square feet that will go towards to the north. There won't be a carport; there will be an addition to the garage.

Mr. Halliday opened the meeting for public comment.

Van Anderson, 728 E Holly Circle, stated that he owns the adjacent property. Mr. Anderson stated that he doesn't see a problem with this addition; he just has a concern with the size of the lot if in the future there is a multiple building lot, there would be a problem. Ms. Haidenthaller stated that in order for someone to subdivide that lot, they would have to bulldoze everything due to the existing location of the home. Mr. Anderson asked about the paved private right-of-way into that area. Mr. Thornton answered that because of the size of the right-of-way it precludes him from subdividing the lot; and the right-of-way would need to be wider.

Ray Christensen stated that the right-of-way would have to be public road status in order for the lots to be subdivided.

The public comment portion of this meeting was closed.

Mr. Ishino made a motion to approve an addition onto the existing legal nonconforming single family dwelling and an addition onto a detached garage located in the rear yard at the property addressed 6265 South 725 East subject to the condition that the applicant shall obtain a building permit prior to construction and the proposed additions shall comply with applicable building and fire codes. Ms. Haidenthaller seconded the motion.

Call vote recorded by Ray Christensen.

A _____ Rosi Haidenthaller

A _____ Tom Halliday

A _____ Roger Ishino

Motion passed, 3-0.

Ms. Haidenthaller made a motion to approve the Findings of Fact as presented. Mr. Ishino seconded the motion.

Motion passed, 3-0.

Meeting adjourned.

Tim Tingey, Director
Administrative Development Services

**Due to the elimination of the Board of Adjustment and subsequently replaced with a Hearing Officer, these minutes were verbally approved by staff and Board of Adjustment members at a later date.